

REMARKS

This Amendment is made in response to the Office Action dated July 17, 2003. Claims 1-44 and 65-70 are pending in this application. Claim 6, 7, 10, 12, 27, 29 and 39 remain withdrawn from consideration for being drawn to a non-elected species. By this Amendment, claims 18, 20, 23, 35 and 70 have been amended in accordance with the Examiner's suggestion to overcome the rejections under 35 USC §112 and the Examiner's objection to claim 70. Applicants have amended claims 18, 20 and 23 to include the claim language previously added in the amendment filed August 30, 2002, which was mistakenly excluded from the last filed amendment. Applicants thank the Examiner for interpreting these claims for examination purpose as including the changes made in the previous amendment. Claim 35 has been amended to change the word "endoprosthesis" to "stent" to provide sufficient antecedent basis for this term. Re-examination and reconsideration of the pending claims is respectfully requested.

The Examiner has rejected claims 1-5, 8, 9, 13, 16-26, 30, 31, 33-36, 40, 41, 43, 44 and 65-70 under 35 USC §102(e) as being anticipated by U.S. Patent Nos. 6,432,130 to Hanson ("the Hanson patent"). The Examiner also has rejected claims 11, 28, 37 and 38 under 35 USC §103(a) as being unpatentable over the Hanson patent in view of Applicant's statements appearing in the pending specification. Lastly, claims 14, 15, 32 and 42 were rejected under 35 USC §103(a) as being unpatentable over the Hanson patent in view of U.S. Patent No. 6,302,875 to Makower et al. ("the Makower patent"). These rejections are respectfully traversed.

Applicants submit that the Hanson patent cannot be applied as prior art for the following reason. Applicants submit herewith, for the Examiner's consideration, a Declaration of Prior Invention in the United States to overcome the cited Hansen patent under 37 CFR §1.131. The Declaration states that the inventors of the present invention completed the present invention as disclosed in the pending application in the United States at a date prior to April 20, 2000, the filing date of the Hanson patent. Applicants were diligent in reducing the invention to practice from the time of conception up to just prior to the filing date of the application which issued into the Hanson patent and up to the filing date of the present application. Accordingly, applicants rely on this Rule 1.131 Declaration of the inventors to swear behind the Hanson patent. Thus, the Hanson patent should not be applied as prior art against the present application.

The Examiner has relied on the Hanson patent to support both the 35 USC §102(e) anticipation rejection and the 35 USC §103(a) obviousness type rejections. Since the Hansen patent is not prior art, it should not be applied to support any of these rejections. For these reasons, Applicants respectfully request that the §102(e) anticipation rejection and the §103(a) obviousness rejections be withdrawn.

In view of the foregoing, Applicants respectfully submit that all claims are now in a condition for allowance. The undersigned attorney can be reached at (310) 824-5555 to facilitate prosecution of this application, if necessary.

In light of the above amendments and remarks, Applicants respectfully request that a timely Notice of Allowance be issued in this case.